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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/731,933

12/11/2003

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EXAMINER

WALTERS, JOHN DANIEL

ART UNIT

PAPER NUMBER

3618

MAIL DATE

DELIVERY MODE

08/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/731,933 | Applicant(s) RASIDESCU ET AL. | |
| | Examiner John D. Walters | Art Unit 3618 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 8-17 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 8-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1 – 4 and 8 – 17 have been examined. Claims 5 – 7 have been canceled by Applicant.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 4, 10 – 13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laimböck (6,467,562) in view of Pestotnik (6,182,784) and Laimböck (6,547,023). Laimböck ('562) discloses a drive unit for a motorcycle comprising:

- a v-type engine (Fig. 2);
- said v-type engine comprising two cylinders being relative to one another at an angle between about 82 and 90 degrees (column 2, line 67);
- a transmission (Fig.2, item 9).

The transmission of Laimböck ('562) is directly connected to said engine via gearing. It is not separated and connected via an endless drive. Pestotnik, however, discloses an all terrain vehicle drive train comprising:

- a separate transmission (Fig. 2, item 68);
- an endless connector, i.e. belt, connecting said engine and said transmission (Fig. 2, item 44).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use the endless connector of Pestotnik in the drive unit of Laimböck ('562) in order to provide flexibility in the placement of drive train components within said unit.

Laimböck ('562) in view of Pestotnik does not disclose the practice of making use of an engine in multiple vehicle types. Laimböck ('023), however, discloses a single-track motor vehicle comprising:

- an engine (item 3);
- said engine being used in a motorcycle (Fig. 3);
- said engine being used in a snowmobile (Fig. 6).

In regards to claim 10, as Laimböck ('023) teaches the desirability of standardization of components specifically between a motorcycle and a snowmobile, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to extend that standardization to any vehicle where said component could be properly used. It would, therefore, be within the knowledge of one of ordinary skill in the art to include small personal watercraft in said standardization with small personal land vehicles.

It would have been obvious to one of ordinary skill in the art at the time the instant invention was made to use a common component, i.e. engine, on multiple vehicle platforms as taught by Laimböck ('023) with the drive unit of Laimböck ('562) in view of Pestotnik in order to reduce cost of and complexity of manufacturing by standardizing components among product lines.

Claims 8, 9, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laimböck (6,467,562) in view of Pestotnik (6,182,784) and Laimböck (6,547,023) as applied to claims 1 – 4, 10 – 13, 16 and 17 above, and further in view of Ducati Museum web page. Laimböck ('562) in view of Pestotnik and Laimböck ('023) does not specify the engine displacement. The Ducati Museum web page, however discloses:

- development of a 750cc, 90 degree v-type engine in the early 1970s.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to make use of a 90 degree, v-type engine of 650cc or greater within the drive unit of Laimböck ('562) in view of Pestotnik and Laimböck ('023) in order to provide required power for high performance applications.

Response to Arguments

Applicant's arguments filed 12 June 2007 have been fully considered but they are not persuasive.

Applicant argues, in multiple instances, that Laimböck ('562) cannot be properly combined with Laimböck ('023). Applicant states, "...it is apparent that an object of Laimböck '023 is to provide an engine having a compact arrangement, and this is achieved by arranging the cylinder or cylinders 5 of the engine 3 of Laimböck '023 in a

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rearwardly horizontal manner... It is apparent that Laimböck '023 would be inoperable for its intended purpose if it were used with a v-type engine..."

Applicant's attention is drawn to the structure of the above and prior rejection. Laimböck '562 is the primary reference in a U.S.C. § 103 rejection, i.e. a combination rejection. Laimböck '023 is introduced to provide the teaching, as noted in the rejections, of making use of a common component (engine) in multiple vehicle types. Applicant makes no comment on why introducing a teaching of a common component would render Laimböck '562 inoperable.

Applicant also states, "...Laimböck '562 and Pestotnik do not teach the family of vehicles as claimed, by extension they do not teach either the land vehicle or the water vehicle of the family comprising a V-type engine."

As noted above, Laimböck '023 provides the teaching of a common engine used amongst a variety of vehicle types. As noted in the above and prior rejections, one of ordinary skill in the art would recognize the advantages of providing a motorcycle and a snowmobile with a common component and it would be well within the knowledge and experience of one of ordinary skill in the art to extrapolate that teaching to other, similarly sized personal vehicles.

For these reasons, the rejections stand.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Tikka (6,216,447) discloses a two-cycle carburetor gasoline engine for snowmobiles, lawn mowers, motorcycles or outboard motors.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone

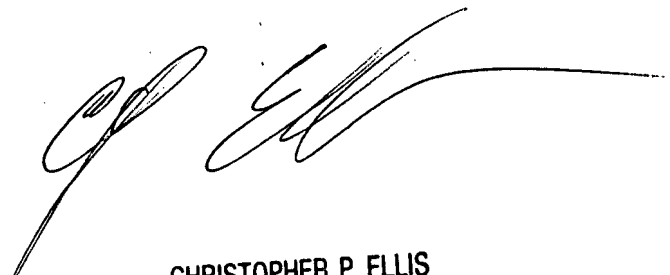
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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John D. Walters
Examiner
Art Unit 3618

JDW



CHRISTOPHER P. ELLIS
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